

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARY K. MCFADDEN,	:	
Plaintiff,	:	CIVIL ACTION
	:	No. 12-880
v.	:	
	:	
CATHERINE W. COLVIN,	:	
Commissioner of the Social Security	:	
Administration,	:	
Defendant.	:	
	:	

ORDER

AND NOW, this 10th day of April 2013, upon careful and independent consideration of Plaintiff's Brief and Statement of Issues [Doc. No. 11], Defendant's Response [Doc. No. 12], Plaintiff's Reply [Doc. No. 15], and the administrative record, and upon review of the Report and Recommendation of United States Magistrate Judge Jacob P. Hart [Doc. No. 17], to which there were no objections, the Court finds that the ALJ's findings of fact and conclusion that Plaintiff was not disabled prior to age 22 are not supported by substantial evidence in the administrative record.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation is **APPROVED** and **ADOPTED**, Plaintiff's request for remand is **GRANTED**, and this matter is **REMANDED** to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further consideration consistent with the Report and Recommendation. In addition to the considerations and recommendations set forth in the Report and Recommendation, the Court instructs the ALJ to consider the evidence that the Lewis School is a special education setting serving only children with learning disabilities, and the evidence that completion of Plaintiff's educational program at the Lewis School did not result in a high school diploma.¹

¹ The ALJ notes that "there was no evidence that she required special education curriculum," seemingly disregarding evidence in the record about the nature of the Lewis School and its student body without explanation.

The Clerk of Court is **DIRECTED** to **REMOVE** this case from Civil Suspense, and to mark the case **CLOSED** for statistical purposes.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.

In addition, the ALJ incorrectly notes that Plaintiff “graduated” from high school; Plaintiff attained a GED. The ALJ failed to explore why Plaintiff did not receive a high school diploma from the Lewis School upon completion of her program there.